

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN RE PAYSIGN, INC. SECURITIES
LITIGATION

Case No. 2:20-cv-00553-GMN-DJ
Hon. Gloria M. Navarro

CLASS ACTION

ORDER AND FINAL JUDGMENT

On the 17th day of April 2024, a hearing having been held before this Court to determine:

(1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated December 15, 2023 (the “Stipulation”) are fair, reasonable and adequate for the settlement of all claims asserted by the Settlement Class against the Defendants (as defined in the Stipulation), including the release of the Released Claims against the Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Action with prejudice; (3) whether to approve the proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund among Settlement Class Members; (4) whether and in what amount to award Lead Counsel fees and reimbursement of expenses; and (5) whether and in what amount to award Plaintiffs reimbursement awards; and

The Court having considered all matters submitted to it at the hearing and otherwise; and

It appearing in the record that the Postcard Notice substantially in the form approved by the Court in the Court’s Order Granting Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, dated January 4, 2024 (“Preliminary Approval Order”) was mailed to all reasonably identifiable Settlement Class Members and of Pendency and the Notice of Proposed Settlement of Class Action (“Long Notice”) was posted to the website of the Claims Administrator, both in accordance with the Preliminary Approval Order and the specifications of the Court; and

It appearing in the record that the Summary Notice of Pendency and Proposed Class Action Settlement substantially in the form approved by the Court in the Preliminary Approval Order was published in accordance with the Preliminary Approval Order and the specifications of the Court;

1 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

2 1. This Order and Final Judgment incorporates by reference the definitions in the
3 Stipulation (Dkt. No. 63-2), and all capitalized terms used herein shall have the same meanings as
4 set forth therein.

5 2. The Court has jurisdiction over the subject matter of the Action, Plaintiffs, all
6 Settlement Class Members, and the Defendants.

7 3. The Court finds that the prerequisites for a class action under Rule 23(a) and (b)(3)
8 of the Federal Rules of Civil Procedure have been satisfied in that:

9 (a) the number of Settlement Class Members is so numerous that joinder of all members
10 thereof is impracticable;

11 (b) there are questions of law and fact common to the Settlement Class;

12 (c) Plaintiffs' claims are typical of the claims of the Settlement Class they seek to
13 represent;

14 (d) Plaintiffs and Lead Counsel fairly and adequately represent the interests of the
15 Settlement Class;

16 (e) questions of law and fact common to the members of the Settlement Class
17 predominate over any questions affecting only individual members of the Settlement Class;
18 and

19 (f) a class action is superior to other available methods for the fair and efficient
20 adjudication of this Action, considering:

21 i. the interests of the Settlement Class Members in individually controlling the
22 prosecution of the separate actions;

23 ii. the extent and nature of any litigation concerning the controversy already
24 commenced by Settlement Class Members;

25 iii. the desirability or undesirability of concentrating the litigation of these
26 claims in this particular forum; and

27 iv. the difficulties likely to be encountered in the management of the class
28 action.

1 The Settlement Class is being certified for settlement purposes only.

2 4. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, for
3 settlement purposes only, the Court hereby finally certifies this action as a class action for a
4 Settlement Class consisting of all persons and entities that purchased or acquired Paysign common
5 stock between March 12, 2019, and March 31, 2020, both dates inclusive (“Settlement Class
6 Period”). Excluded from the Settlement Class are: (a) persons who suffered no compensable losses;
7 and (b)(i) Defendants; (ii) any person who served as a partner, control person, executive officer
8 and/or director of Paysign during the Settlement Class Period, and members of their immediate
9 families (as defined in 17 C.F.R. § 229.404, Instructions (1)(a)(iii) and (1)(b)(ii)); (iii) present and
10 former parents, subsidiaries, assigns, successors, affiliates, and predecessors of Paysign; (iv) any
11 entity in which the Defendants have or had a controlling interest; (v) any trust of which an
12 Individual Defendant is the settler or which is for the benefit of an Individual Defendant and/or
13 member(s) of their immediate families; (vi) Defendants’ liability insurance carriers; and (vii) the
14 legal representatives, heirs, successors, and assigns of any person or entity excluded under
15 provisions (i) through (vi) hereof. Also excluded from the Settlement Class are any persons and
16 entities who or which submit a request for exclusion from the Settlement Class that the Court
17 accepts. For the avoidance of doubt, “affiliates” are persons or entities that directly, or indirectly
18 through one or more intermediaries, control, are controlled by or are under common control with
19 one of the Defendants. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs are
20 certified as the class representatives on behalf of the Settlement Class (“Class Representatives”) and Lead Counsel, Pomerantz LLP, previously selected by Plaintiffs and appointed by the Court is
21 hereby appointed as Class Counsel for the Settlement Class (“Class Counsel”).

23 5. In accordance with the Court’s Preliminary Approval Order, the Court hereby finds
24 that the forms and methods of notifying the Settlement Class of the Settlement and its terms and
25 conditions met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure,
26 and Section 21D(a)(7) of the Exchange Act, 15 U.S.C. §78u-4(a)(7), as amended by the Private
27 Securities Litigation Reform Act of 1995; constituted the best notice practicable under the
28 circumstances; and constituted due and sufficient notice of these proceedings and the matters set

1 forth herein, including the Settlement and Plan of Allocation, to all persons and entities entitled to
2 such notice. No Settlement Class Member is relieved from the terms and conditions of the
3 Settlement, including the releases provided for in the Stipulation, based upon the contention or
4 proof that such Settlement Class Member failed to receive actual or adequate notice. A full
5 opportunity has been offered to the Settlement Class Members to object to the proposed Settlement
6 and to participate in the hearing thereon. No objections or exclusions by Settlement Class Members
7 have been filed. The Court further finds that the notice provisions of the Class Action Fairness Act,
8 28 U.S.C. § 1715, were fully discharged. Thus, it is hereby determined that all Settlement Class
9 Members are bound by this Order and Final Judgment.

10 6. The Settlement is approved as fair, reasonable and adequate under Rule 23 of the
11 Federal Rules of Civil Procedure, and in the best interests of the Settlement Class. This Court
12 further finds that the Settlement set forth in the Stipulation is the result of good faith, arm's-length
13 negotiations between experienced counsel representing the interests of the Class Representatives,
14 Settlement Class Members and Defendants. The Parties are directed to consummate the Settlement
15 in accordance with the terms and provisions of the Stipulation.

16 7. The Action and all claims contained therein, as well as all of the Released Claims,
17 are dismissed with prejudice as against each and all of the Defendants. The Parties are to bear their
18 own costs, except as otherwise provided in the Stipulation.

19 8. The Releasing Parties, on behalf of themselves, their successors and assigns, and
20 any other Person claiming (now or in the future) through or on behalf of them, regardless of whether
21 any such Releasing Party ever seeks or obtains by any means, including without limitation by
22 submitting a Proof of Claim and Release Form, any disbursement from the Settlement Fund, shall
23 be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally,
24 and forever released, relinquished, and discharged all Released Claims against the Released Parties.
25 The Releasing Parties shall be deemed to have, and by operation of this Order and Final Judgment
26 shall have, covenanted not to sue the Released Parties with respect to any and all Released Claims
27 in any forum and in any capacity. The Releasing Parties shall be and hereby are permanently barred
28 and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any

1 way participating in the commencement or prosecution of any action or other proceeding, in any
2 forum, asserting any Released Claims, in any capacity, against any of the Released Parties. Nothing
3 contained herein shall, however, bar the Releasing Parties from bringing any action or claim to
4 enforce the terms of the Stipulation or this Order and Final Judgment.

5 9. To the fullest extent permitted by law, all Persons shall be permanently enjoined,
6 barred and restrained from bringing, commencing, prosecuting or asserting any claims, actions, or
7 causes of action for contribution, indemnity or otherwise against any of the Released Parties
8 seeking as damages or otherwise the recovery of all or any part of any liability, judgment or
9 settlement which they pay or are obligated to pay or agree to pay to the Settlement Class or any
10 Settlement Class Member arising out of, relating to or concerning such Persons' participation in
11 any acts, facts, statements or omissions that were or could have been alleged in the Action, whether
12 arising under state, federal or foreign law as claims, cross-claims, counterclaims, third-party claims
13 or otherwise, in the Court or any other federal, state, or foreign court, or in any arbitration
14 proceeding, administrative agency proceeding, tribunal, or any other proceeding or forum. Further,
15 nothing in the Stipulation or this Order and Final Judgment shall apply to bar or otherwise affect
16 any claim for insurance coverage by any Defendant.

17 10. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable
18 method to allocate the Net Settlement Fund among Settlement Class Members, and Lead Counsel
19 and the Claims Administrator are directed to administer the Plan of Allocation in accordance with
20 its terms and the terms of the Stipulation.

21 11. The Court finds that all Settling Parties and their counsel have complied with all
22 requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities
23 Litigation Reform Act of 1995 as to all proceedings herein.

24 12. Neither this Order and Final Judgment, the Stipulation (nor the Settlement contained
25 therein), nor any of its terms and provisions, nor any of the negotiations, documents or proceedings
26 connected with them:

- 27 (a) is or may be deemed to be, or may be used as an admission, concession, or
28 evidence of, the validity or invalidity of any Released Claims, the truth or falsity of

1 any fact alleged by Plaintiffs, the sufficiency or deficiency of any defense that has
2 been or could have been asserted in the Action, or of any wrongdoing, liability,
3 negligence or fault of the Defendants, the Released Parties, or any of them;

4 (b) is or may be deemed to be or may be used as an admission of, or evidence
5 of, any fault or misrepresentation or omission with respect to any statement or
6 written document attributed to, approved or made by any of the Defendants or
7 Released Parties in any civil, criminal or administrative proceeding in any court,
8 administrative agency or other tribunal;

9 (c) is or may be deemed to be or shall be used, offered or received against the
10 Parties, Defendants or the Released Parties, or each or any of them, as an admission,
11 concession or evidence of the validity or invalidity of the Released Claims, the
12 infirmity or strength of any claim raised in the Action, the truth or falsity of any fact
13 alleged by the Plaintiffs or the Settlement Class, or the availability or lack of
14 availability of meritorious defenses to the claims raised in the Action;

15 (d) is or may be deemed to be or shall be construed as or received in evidence
16 as an admission or concession against Defendants, or the Released Parties, or each
17 or any of them, that any of Plaintiffs' or Settlement Class Members' claims are with
18 or without merit, that a litigation class should or should not be certified, that
19 damages recoverable in the Action would have been greater or less than the
20 Settlement Fund or that the consideration to be given pursuant to the Stipulation
21 represents an amount equal to, less than or greater than the amount which could have
22 or would have been recovered after trial.

23 13. The Released Parties may file the Stipulation and/or this Order and Final Judgment
24 in any other action that may be brought against them in order to support a defense or counterclaim
25 based on principles of res judicata, collateral estoppel, full faith and credit, release, good faith
26 settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion
27 or similar defense or counterclaim. The Settling Parties may file the Stipulation and/or this Order
28 and Final Judgment in any proceedings that may be necessary to consummate or enforce the

1 Stipulation, the Settlement, or this Order and Final Judgment.

2 14. Except as otherwise provided herein or in the Stipulation, all funds held by the
3 Escrow Agent shall be deemed to be in *custodia legis* and shall remain subject to the jurisdiction
4 of the Court until such time as the funds are distributed or returned pursuant to the Stipulation
5 and/or further order of the Court.

6 15. Without affecting the finality of this Order and Judgment in any way, this Court
7 hereby retains continuing exclusive jurisdiction over the Settling Parties and the Settlement Class
8 Members for all matters relating to the Action, including the administration, interpretation,
9 effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including
10 any application for fees and expenses incurred in connection with administering and distributing
11 the Settlement proceeds to the Settlement Class Members.

12 16. Without further order of the Court, the Defendants and Class Representatives may
13 agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

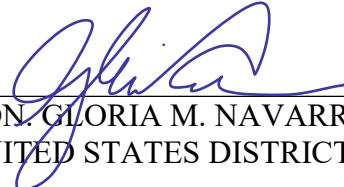
14 17. There is no just reason for delay in the entry of this Order and Final Judgment and
15 immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal
16 Rules of Civil Procedure.

17 18. The finality of this Order and Final Judgment shall not be affected, in any manner,
18 by rulings that the Court may make on Class Counsel's application for an award of attorneys' fees
19 and expenses or an award to the Class Representatives.

20 19. Class Counsel are hereby awarded 33 and 1/3% of the Settlement Amount in
21 fees, which the Court finds to be fair and reasonable, and \$57,471.31 in reimbursement of
22 expenses plus interest earned on such amounts while deposited in the Settlement Fund. Defendants
23 shall have no responsibility for any allocations of attorneys' fees and expenses and shall have no
24 liability to Class Counsel or any other person in connection with the allocation of attorneys' fees
25 and expenses. Class Representatives are hereby awarded \$10,000, or \$5,000 each, which the Court
26 finds to be fair and reasonable.

27 20. In the event the Settlement is not consummated in accordance with the terms of the
28 Stipulation, then the Stipulation and this Order and Final Judgment (including any amendment(s))

1 thereof, and except as expressly provided in the Stipulation or by order of the Court) shall be null
2 and void, of no further force or effect, and without prejudice to any Settling Party, and may not be
3 introduced as evidence or used in any action or proceeding by any Person against the Parties or the
4 Released Parties, and each Party shall be restored to his, her, or its respective litigation positions as
5 they existed prior to November 1, 2023, pursuant to the terms of the Stipulation.

6
7 
HON. GLORIA M. NAVARRO
8 UNITED STATES DISTRICT JUDGE

9 Dated: April 18, 2024
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28